

Arlington Conservation Commission  
Minutes  
January 18, 2018

Mr. Stevens called the meeting to order at 7:35 p.m. in the second floor conference room of the Town Hall Annex. Present were Commission Members Nathaniel Stevens, David White, Mike Nonni, Curt Connors, Susan Chapnick, Cathy Garnett, Charles Tirone, Pam Heidell, and Conservation Agent Lela Shepherd. Also present were Harold Boucher, Amy Lynch, Monika Musial-Siwiek, Peter Musial, Ben Ferber, Aimee D'Onofrio, Alice Trexler, Mary Trudeau, Bill Copithorne (Realtor), and Seaver Construction.

**Administrative:**

12/7/2017 Minutes

Edits to the draft Minutes were discussed, D. White motioned to approve the Minutes as edited, S. Chapnick seconded, all were in favor, motion carried.

67 Dothan St-Violation Notice

A notice of potential wetlands violation was sent to Sven Birkerts, because a black plastic pipe was seen discharging directly into Reeds Brook. Mr. Birkerts was instructed to attend tonight's meeting to explain the discharge and to discuss alternative options. Mr. Birkerts did not appear at the meeting. L. Shepherd will respond by sending a follow-up letter with options for remedy and education, with notice that if another hearing is missed, an enforcement order will follow.

Waterbodies

D. White gave a summary of the projects concerning waterbodies within Arlington, which will be included in the annual Water Bodies Report being prepared by the working group in support of the Water Bodies Fund. Updates were given for Hills Pond, McClennen Park / Reeds Brook, Mill Brook, and the Reservoir. The Park and Rec Commission will be presenting final plans for Phase I of the Reservoir Master Plan Project on 1/23/2018. P. Heidell will attend this meeting as a representative of the Conservation Commission, give feedback, and report back to the Commission on 2/1/2018.

630 Summer St-Enforcement Order

*Documents Reviewed: photographs*

Conservation Agent L. Shepherd issued an Enforcement Order to Sean Galvin, received in person on 1/9/2018, to remove snow he had dumped into the wetlands directly behind his property at 630 Summer St. Mr. Galvin had brought snow from off-site, creating sedimented snow piles of over six feet. Mr. Galvin was ordered to attend tonight's meeting to discuss a snow removal plan for the site moving forward, and to discuss whether remediation would be required in the Spring of 2018, based on damage incurred during snow removal. Mr. Galvin did not attend the meeting. Ms. Shepherd returned to the site on 1/11/18 and observed contractors removing the snow, though not in the manner she had instructed so as to minimize damage to wetlands. She observed wetland vegetation removed and equipment tracks in wetlands. D. White moved to ratify the Enforcement Order issued by Conservation Agent L. Shepherd, C. Connors seconded, all were in favor, motion carried.

C. Tirone motioned to issue another Enforcement Order, ordering Mr. Galvin to appear in front of the Commission with a snow removal plan on 2/1/2018, P. Heidell seconded. Discussion over whether fines can be issued for non-compliance with an enforcement order; N. Stevens will look into the matter, all were in favor, motion carried. L. Shepherd will issue another Enforcement Order to present snow management plan at 2/1/2018 meeting. L. Shepherd also sent a letter to other houses on Summer Street that about wetlands as outreach / education about not dumping snow into the wetlands.

**Request for Determination-Mass DOT-Route 2 Repaving**

*Amy Lynch of MassDOT for Requestor*

*Documents Reviewed: Construction Plans; "Town of Bedford v. Mass. Highway", 458 Mass. 596 (2010)*

MassDOT is proposing to repave a section of Route 2, adding a ¾ inch overlay asphalt layer to the existing

surface from Route 2 to Route 16. The flood zone area will remain the same elevation by milling the pavement prior to resurfacing. Erosion control locations were presented on their site plan. Storm drains will be cleaned as per their contract.

C. Tirone requested that MassDOT include the repair of a pothole at the Lake Street exit, which has a 10 foot wide and 6 inch deep pothole heading west towards Mass Ave, in their scope. This part of Lake Street is not included in the project area. There is also a mound of pavement under the Route 2 Bridge which presents a hazard to the public in the area.

Concerns were raised about milling on road shoulders near the wetlands, on off-ramps, and near the Bordering Land Subject to Flooding. The question was raised about how dust from milling will be mitigated from reaching the resource area. Ms. Lynch responded that dust will be minimal with asphalt and that the machinery collects it as it moves along. The work will be conducted at night. The Commission requested a laydown area beyond 100 feet of the wetlands. Ms. Lynch confirmed that won't be a problem.

The Commission stated that MassDOT is not exempt from the Town Bylaw simply because they are a state agency, absent specific legislation explicitly exempting MassDOT, citing "Town of Boxford v. Mass Highway", 458 Mass. 596 (2010). S. Chapnick asked if the milling trucks have a water spray to contain the silica dust generated from milling asphalt, as it is harmful to the public, aquatic environments and wildlife. MassDOT will look into this. They were not sure when the project will go out to bid. The Commission ordered a condition under the Determination to mitigate the silica dust created by the milling machines, with the following terminology: "MassDOT is required to use highway milling machines with dust suppression, if not practicable, they must return to the Commission to seek approval for an alternative method; no NOI required".

S. Chapnick moved to issue a positive determination with the aforementioned condition, D. White seconded, all were in favor, motion carried.

The Commission reminded MassDOT that a contact sheet is required prior to start of work.

#### **Notice of Intent-47 Spy Pond Lane Lot A/1**

*Mary Trudeau, representing applicant Scott Seaver*

*Documents Reviewed: NOI, Site Plan, Planting Mitigation*

Ms. Trudeau stated this NOI was being filed under the Bylaw only, as Mr. Seaver had obtained a Superseding Order of Conditions from Massachusetts Department of Environmental Protection for these projects. Mr. Seaver had not appealed the Commission's denial of the project under the Bylaw, so they are applying again. She stated that under the Town Zoning Bylaws, there is sufficient land on this property to warrant a subdivision into two lots. Spy Pond and Bordering Vegetative Wetlands exist at the southeast corner of the lot; there is no house on lot 1 currently. There is a house on Lot 2 and an existing sewer main that runs into Spy Pond Lane. The Applicant is proposing to build a single family house on Lot 1, set 50 feet away from Spy Pond. This is as far of a setback as zoning allows for a house of the same size and location as proposed. The Applicant is proposing mitigation planting in the 25 foot buffer zone, which would transform the grass lawn into a meadowland. A rare sedge may occur on the lot at the edge of Spy Pond. The applicant intends to install an 8-foot wide path on the side of the meadowland plantings, which would be created for vehicle maintenance access in order to avoid disturbing the new vegetation. The other lot would have a parallel 8-foot wide path, making the total width of the grass path as 16 feet. The deck of the proposed house is located 50-51 feet from the bank of Spy Pond. A 2-car-wide driveway is also proposed on the street side, along with a walkout basement on the pond side. Erosion control fencing will be installed at the 50 foot buffer zone and the bank of Spy Pond. No work is proposed to the shoreline itself where there is a wall. Ms. Trudeau stated that the proposed house is two-story and approximately 3,500 sq. feet of living area and would add 857 square feet of impervious surface in the 50-100 foot zone adjacent to Spy Pond (the Adjacent Upland Resource Area), over existing conditions.

The property is still under contract with the current owner for purchase, pending approval of the project.

The Commission stated it did not desire having vehicular access to the Spy Pond shoreline, and did not

believe that an unmodified soil for the vehicle path would be sufficient in handling the weight of a vehicle. The Applicant responded that the path would be a wide walking path not necessarily for regular vehicular use, and that it could instead provide an option for carrying a kayak down and access if shoreline repair work was needed in the future.

As part of the planting plan, 68 plants are proposed, 30 of which are low-bush blueberry. There is a pre-existing dock located in the middle of the proposed thicket, which is permitted. The Commission asked whether it could be moved closer to the proposed path. The owner said he has a Waterways permit good for 10 years and was renewed last year. The Applicant will give further thought as to whether it can be moved and will provide a copy of the Waterways permit. The wooden dock has 4x4 legs and was intended to be permanent but is now in disrepair and can be easily removed. The thicket planting is meant to replace the Hawthorne tree being removed for construction. The Applicant is no longer proposing to replace the Hawthorne tree with two Sycamore Trees.

The Commission previously requested the applicant consider in the alternatives analysis that the square footage of the house be reduced to minimize the impact on the resource area; however, the Applicant has not reduced the size of the house, stating economic reasons. The applicant's alternatives analysis relies on economic justifications for the house size. The deck is sized 8.5 by 16.5 feet. The setback of the house from the road is 25.5 feet, and the zoning requirement is 25 feet. The Applicant said that he could reduce the size of the house at most by a foot or so. Ms. Heidell asked whether there was living space in the basement and in the half-story on the third floor, as this could allow the house footprint to be reduced and still maintain the same amount of usable square feet. The applicant did not directly respond to this comment.

N. Stevens moved to introduce documents 27-80 from the prior proceedings.

The Applicant stated that 16 Spy Pond Parkway was approved for a 5,009 square foot house on a 12,000 square foot lot. The Commission noted that this lot is further away from Spy Pond.

The Commission asked what reflective lighting options were considered, as the glare is disruptive to wildlife on the Pond. The Applicant stated they are not opposed to dark sky lighting.

*Public Comments:*

*Ben Ferber, 11 Princeton Rd-Abutter*

Mr. Ferber commented that the intent of the house is to have 4 floors of living space, so he believes that 3,500 sq. feet is inaccurate and too low of an estimate. He also stated that the house is way too big for the neighborhood and he does not see any substantial changes from the previous application which was denied. He urged the Commission to come to the same conclusions, as they continue to remain valid and previous concerns about the impact on the resource area and wildlife have not been addressed.

*Monika Musial-Siwiek, 15 Princeton Rd-Abutter*

Mrs. Musial-Siwiek stated that the environmental cost should be a priority over economic cost.

*Peter Musial, 15 Princeton Rd-Abutter*

Mr. Musial asked how machinery would get to the storm drainage without accessing the wetlands.

The Applicant replied that the sewer easement would be used.

The Commission requested that Ms. Trudeau restake the 50 foot buffer on the property for the purpose of site visits. A copy of the waterways license for the dock was also requested, along with architectural drawings. The applicant agreed to restake the property and provide such information prior to the next hearing.

**Notice of Intent-47 Spy Pond Lane Lot B/2**

*Mary Trudeau*

*Documents presented: Existing Conditions Plan, Site Plan, and Planting Plan*

Ms. Trudeau said the Applicant is re-applying for Lot 2 for the same reasons he is reapplying for Lot 1. She explained that Lot 2 has an existing house, outside of the 100-foot buffer, which is in disrepair due to a fire. The Applicant is proposing to build a new house with a similar footprint and design as the house proposed on Lot 1, and as previously denied by the Commission. The deck of the new house would be set back 68.9 feet from the wetland. Soil tests were conducted on the property in the infiltration areas, and results have been incorporated into the design proposal. The Applicant proposes to restore the 0-25 foot zone adjacent to Spy Pond to a full wetland condition, with 30 shrubs, 8 small trees, and 30 lowbush blueberries. There would be a grassed surface walking path of 8 feet wide along the wetlands down to the bank of Spy Pond; similar to Lot 1/A. Approximately 419 square feet of construction is proposed in the 50-100 foot zone adjacent to Spy Pond (the Adjacent Upland Resource Area), for an addition of 121 square feet of impervious surface over existing conditions. Based on the site plan, a sewer easement bisects the property in the 50 foot buffer zone, and has an existing sewer in it. It is owned by the Town and cannot be moved.

The planting plan mimics that proposed for Lot 1/A, since there is a continuous frontage along Spy Pond. The Applicant is proposing a filter sock during construction. Erosion controls would be placed at the 50 foot line. This planting plan would create a thicket-like area and not a lawn, making it a diversified ecology on the lot and discouraging access to the shoreline. The grass currently in this area would not be left, instead, leaf litter would be used or some kind of compost to fill in around the new plantings. The lawn between the 25 to the 50 foot marks would remain lawn and could be restored by repeated mowing alone and not require new sod.

The new house would be two stories and have a 10x11 foot deck. Due to side setback requirements, the deck cannot be moved to either side of the house.

*Public Comments:*

*Peter Muisal* (abutter) commented that he received a quote from a private contractor for moving the sewer line to Spy Pond Lane at a cost of \$93,000. If the Applicant moved the sewer line, they could keep the lot as is and build one bigger house, which would have less environmental impact than subdividing and creating two houses.

*Monika Musial-Siwiek* commented that there are turtle nests on the property. S. Chapnick brought up that the Commission should review the wildlife documentation provided in the prior hearings, and incorporate by reference herein.

S. Chapnick motioned to continue the hearing on both lots to 2/1/2018 at 8:15pm, D. White seconded, all were in favor, motion carried.

*Wetland Regulations*

D. White moved to postpone the revisions to 2/1/2018 at 8:30 pm, C. Connors seconded, all were in favor, motion carried.

*Spy Pond Revised Invoice-LEC/Hatch Chester*

D. White moved to approve the invoice, in the amount of \$3,171.60, M. Nonni seconded, all were in favor, motion carried.

*DRC Recreational Trails Grant Program to supplement the Spy Pond Project.*

L. Shepherd and C. Garnett would like to apply for a grant that would provide additional funding for pathway improvement throughout the park and potentially at North Beach and behind Scannell Field.

D. White moved to have L. Shepherd apply for DCR grant, S. Chapnick seconded, all were in favor, motion carried. C. Garnett will assist in preparation of the grant.

Meeting was adjourned at 10:55 pm.

Respectfully submitted,

Lela Shepherd  
Environmental Planner/Conservation Agent